

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,)
) Case No. 1:15-CR-00149
) (RJA) (JJM)
 Plaintiff,)
)
 vs.) August 5th, 2022
) 9:04 a.m.
 FRANK R. PARLATO, JR.,)
)
 Defendant.)

**TRANSCRIPT OF PLEA
BEFORE THE HONORABLE RICHARD J. ARCARA
SENIOR UNITED STATES DISTRICT JUDGE**

APPEARANCES:

For the Plaintiff: TRINI E. ROSS, ESQ.
UNITED STATES ATTORNEY
BY: CHARLES M. KRULY, ESQ.
ASSISTANT UNITED STATES ATTORNEY
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Buffalo, NY 14202

For the Defendant: LIPSITZ GREEN SCIME CAMBRIA LLP
BY: PAUL J. CAMBRIA, ESQ.
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Court Reporter: MEGAN E. PELKA, RPR
Robert H. Jackson US Courthouse
2 Niagara Square
Buffalo, NY 14202
(716) 229-0880

09:04AM 1 THE CLERK: This is case 15-CR-149 and 22-CV-601.

09:04AM 2 United States v. Frank R. Parlato. Change of plea. Counsel,

09:04AM 3 please state your name and the party you represent for the

09:04AM 4 record.

09:04AM 5 MR. KRULY: Charles Kruly for the United States.

09:04AM 6 Good morning, Your Honor.

09:04AM 7 MR. GREENMAN: Herb Greenman, Judge, and Paul Cambria

09:04AM 8 on behalf of Mr. Parlato. Good morning, Your Honor.

09:05AM 9 THE COURT: Good morning.

09:05AM 10 MR. GREENMAN: Judge, we are making a couple of last-

09:05AM 11 minute changes. We just need a few more minutes.

09:05AM 12 THE COURT: No problem. I just realized two minutes

09:05AM 13 ago or three minutes ago, that's why I'm a couple minutes

09:05AM 14 late, This United States v. 131,000.

09:05AM 15 MR. GREENMAN: Right.

09:05AM 16 THE COURT: Currency? And there's an -- involves, I

09:05AM 17 guess, KeyBank?

09:05AM 18 MR. KRULY: Correct.

09:05AM 19 THE COURT: It involves Bank of America. Well, my

09:05AM 20 wife has a checking account at Bank of America. I have my

09:05AM 21 checking account at KeyBank. And, you know, about six months

09:05AM 22 ago, The Wall Street Journal did an article about judges

09:05AM 23 having assets and having cases. They have -- 138 judges were

09:05AM 24 identified as having some interest, I guess. And of the 138,

09:06AM 25 I had two of them. Two of them that I had was that I never

09:06AM 1 did a thing on either one of the two. I guess the lawyers
09:06AM 2 agreed to withdraw the complaints. I signed the order
09:06AM 3 withdrawing -- accepting the withdrawal. That's all I did. I
09:06AM 4 think I spent somewhere between three seconds and five seconds
09:06AM 5 on it. I'm one of the 138 judges. I thought I committed a
09:06AM 6 mortal sin. I thought I should be punished severely. And I'm
09:06AM 7 one of the 138 that was a bad judge for handling something I
09:06AM 8 shouldn't have handled. Well, judges are paranoid about this
09:06AM 9 right now. And I just got this assigned -- this other case
09:06AM 10 was transferred to me.

09:06AM 11 MR. GREENMAN: Right.

09:06AM 12 THE COURT: I didn't know until this morning.

09:07AM 13 MR. GREENMAN: We actually have to file a claim for
09:07AM 14 that money which we prepared.

09:07AM 15 THE COURT: Well, the question is, do I have a
09:07AM 16 conflict?

09:07AM 17 MR. GREENMAN: Oh.

09:07AM 18 THE COURT: On the case that was -- because Judge
09:07AM 19 Vilardo had the case, but I have a KeyBank account checking.

09:07AM 20 MR. KRULY: Judge, the government doesn't see any
09:07AM 21 conflicts. The accounts --

09:07AM 22 THE COURT: I don't either, but I just got hit with
09:07AM 23 this.

09:07AM 24 MR. KRULY: Right.

09:07AM 25 THE COURT: So, I just want to disclose everything.

09:07AM 1 I'm trying to figure out -- my wife -- we have a list. Every
09:07AM 2 day, I get a list of all the cases that I may have a conflict
09:07AM 3 with. And, apparently, we -- I'm trying to figure out right
09:07AM 4 now what amount -- my wife may have some miniscule amount of
09:07AM 5 stock in, I guess, the Bank of America.

09:07AM 6 MR. KRULY: Judge, these accounts are -- they're
09:07AM 7 solely holding money on behalf of third parties. They're not
09:07AM 8 defendants. They're not parties to the action.

09:08AM 9 THE COURT: Just make sure that I can take a look at
09:08AM 10 this. That's why I'm a couple minutes late. I just got hit
09:08AM 11 with this a few minutes ago, because we get a list every day
09:08AM 12 from our stock broker. I don't have any stock. It's my wife.
09:08AM 13 And if you know how being married is, I don't have any idea
09:08AM 14 what my wife is doing with these stocks.

09:08AM 15 So -- but since it doesn't involve a defendant with a
09:08AM 16 name -- where my wife may have probably \$50 worth of stock, I
09:08AM 17 don't know what it is, but I just want to give you a full
09:08AM 18 disclosure. So, give me a couple of minutes so I can put on
09:08AM 19 the record exactly what my involvement would have been about
09:08AM 20 this civil case.

09:08AM 21 MR. GREENMAN: No problem, Judge. And for the
09:08AM 22 record, Judge --

09:08AM 23 THE COURT: And you got to make some changes.

09:08AM 24 MR. GREENMAN: Yeah. Mr. Parlato, Judge, would waive
09:08AM 25 any potential conflict. We don't even believe there is any

09:08AM 1 conflict. We understand if you want to look at it. Judge, my
09:08AM 2 only other problem, I've got to be in another court at 10
09:08AM 3 o'clock this morning.

09:09AM 4 THE COURT: If necessary, I'll call him. This is a
09:09AM 5 superseding information?

09:09AM 6 MR. KRULY: That's correct, Your Honor.

09:09AM 7 THE COURT: Okay. All right. I took at look at it a
09:09AM 8 few minutes ago. It doesn't seem to be any issues that I'm
09:09AM 9 aware of. I guess you've got to exclude some paragraph,
09:09AM 10 paragraph 6.

09:48AM 11 (A recess was taken from 9:09 a.m. to 9:48 a.m.)

09:48AM 12 THE CLERK: All rise.

09:48AM 13 THE COURT: Well, I have done my investigation
09:48AM 14 about -- and this only involves the United States v. \$131,901
09:48AM 15 case, that my wife owns some stock in Bank of America. My
09:48AM 16 wife has an account with KeyBank, and I have an account,
09:49AM 17 checking account, with KeyBank. That's it.

09:49AM 18 MR. KRULY: The government sees no issue.

09:49AM 19 THE COURT: Mr. Greenman?

09:49AM 20 MR. GREENMAN: So do I, Your Honor. It doesn't have
09:49AM 21 very much in it, but I have one also, but we have no
09:49AM 22 objection, Your Honor.

09:49AM 23 THE COURT: All right. I don't know what more full
09:49AM 24 disclosure -- I mean, I don't want to get into how big it is.
09:49AM 25 It's not that -- it's -- I'm learning this right now. I

09:49AM 1 didn't even know I had this, but it only involves that. And
09:49AM 2 no one has any objection to proceeding?

09:49AM 3 MR. KRULY: No, Your Honor.

09:49AM 4 MR. GREENMAN: Correct, Your Honor.

09:49AM 5 THE COURT: Okay. SO, where are we now as far as the
09:49AM 6 plea?

09:49AM 7 MR. GREENMAN: We're prepared to proceed, Your Honor.

09:49AM 8 THE COURT: Okay. As -- I noticed that I have the
09:49AM 9 original in front of me. I note that there's been --
09:49AM 10 paragraph 6 has been eliminated and it's initialed by the
09:49AM 11 parties. Are there any other changes?

09:49AM 12 MR. GREENMAN: There are changes at the back, Your
09:49AM 13 Honor.

09:49AM 14 THE COURT: In the facts?

09:50AM 15 MR. GREENMAN: Right after.

09:50AM 16 THE COURT: I don't have a copy of the charges.

09:50AM 17 MR. GREENMAN: At the least page, 15, Your Honor, it
09:50AM 18 has his signature block and his initials.

09:50AM 19 THE COURT: Okay. We'll go through it. And it's
09:50AM 20 been initialled and reviewed by Mr. Parlato?

09:50AM 21 MR. GREENMAN: It has been, Your Honor.

09:50AM 22 THE COURT: Okay. Are we ready to proceed?

09:50AM 23 MR. GREENMAN: All ready. We talked to Judge
09:50AM 24 Boller's office and there's no problem. They've got a very
09:50AM 25 busy calendar, so if we got over there 11, 11:30.

09:50AM 1 THE COURT: Why don't we start off, Mr. Kruly?

09:50AM 2 MR. KRULY: Judge, it's my understanding that we're
09:50AM 3 here because the defendant wishes to enter a change of plea
09:51AM 4 and plead guilty to a superseding information.

09:51AM 5 THE COURT: That's your understanding, Mr. Greenman?

09:51AM 6 MR. GREENMAN: That's correct, Your Honor.

09:51AM 7 THE COURT: Would you please administer the oath to
09:51AM 8 Mr. Parlato?

09:51AM 9 (The defendant was sworn at 9:51 a.m.)

09:51AM 10 THE COURT: Mr. Parlato, you are now under oath, sir.
09:51AM 11 And being under oath during the course of these proceedings,
09:51AM 12 I'll be asking you a number of questions. You'll have to
09:51AM 13 answers those questions honestly and truthfully. If you were
09:51AM 14 to give me any false answer or make any false statement, that
09:51AM 15 statement may be used against you in a further prosecution
09:51AM 16 brought by the government on a charge of perjury or making a
09:51AM 17 false statement while under oath. Do you understand that,
09:51AM 18 sir?

09:51AM 19 THE DEFENDANT: Yes, I do.

09:51AM 20 THE COURT: It's also very important that you
09:51AM 21 understand what your rights are. If at any time during the
09:51AM 22 course of these proceedings, there's something you don't
09:52AM 23 understand, you want to ask me a question, you want to consult
09:52AM 24 with your attorney, you want something more fully explained to
09:52AM 25 you, you're free to do so. You're encouraged to do so. It's

09:52AM 1 not important we get this over as quickly as possible. We
09:52AM 2 have all day. And I know Mr. Greenman has other appointments.
09:52AM 3 We will have as much time as you need to make sure that you
09:52AM 4 fully understand what your rights are. Do you understand
09:52AM 5 that?

09:52AM 6 THE DEFENDANT: Yes, I do. Thank you.

09:52AM 7 THE COURT: Now, it's my understanding you're here to
09:52AM 8 waive indictment and to plead guilty under the terms and
09:52AM 9 conditions of the plea agreement. Would you please read the
09:52AM 10 superseding information, Mr. Kruly?

09:52AM 11 MR. KRULY: Yes, Judge. The superseding information
09:52AM 12 reads, Count 1.

09:52AM 13 The United States Attorney charges that, paragraph 1.
09:52AM 14 During the calendar year 2010, in the Western District of New
09:52AM 15 York, the defendant, Frank R. Parlato, Jr., managed the One
09:52AM 16 Niagara building and Torres Services, Incorporated, businesses
09:52AM 17 located in Niagara Falls, New York, and engaged in trade and
09:52AM 18 business as a manager of a tourism center.

09:53AM 19 From on or about April 10th, 2010, until on or about July
09:53AM 20 31st, 2010, the defendant, in connection with a series of
09:53AM 21 transactions relating to the collection of rent in the Summer
09:53AM 22 2010 season, did receive \$19,970 in cash from Vendor 1, whose
09:53AM 23 identity is known to the United States Attorney, as Vendor 1's
09:53AM 24 rent payment for the Summer 2010 season.

09:53AM 25 Paragraph 2. By virtue of his receipt of \$19,970 between

09:53AM 1 on or about April 10th, 2010 and July 31st, 2010, the
09:53AM 2 defendant was required by law pursuant to Title 26, United
09:53AM 3 States Code, Section 6050(i), and Treasury Regulation Section
09:53AM 4 1.6050i-1 (26 CFR) to file with the Internal Revenue Service
09:53AM 5 within 15 days of his receipt of cash exceeding \$10,000, a
09:53AM 6 return on IRS Form 8300 in the manner and form stated thereon
09:54AM 7 stating, among other things, the name, address, and taxpayer
09:54AM 8 identification number of the person from whom he received the
09:54AM 9 cash, the amount of the cash received, and the date and nature
09:54AM 10 of the transaction.

09:54AM 11 Paragraph 3. Well knowing all of the foregoing facts, the
09:54AM 12 defendant did willfully fail to file the required return with
09:54AM 13 the Internal Revenue Service, all in violation of Title 26,
09:54AM 14 United States Code, Sections 7203 and 6050(i) dated and signed
09:54AM 15 by me today.

09:54AM 16 THE COURT: Do you understand this charge, sir?

09:54AM 17 THE DEFENDANT: Yes, I do.

09:54AM 18 THE COURT: Mr. Greenman, you've gone over this
09:54AM 19 charge with your client. It's pretty straightforward. Any
09:54AM 20 reason for me to go through any further explanation?

09:54AM 21 MR. GREENMAN: I agree with that, Your Honor, and I
09:54AM 22 have spent time going over everything with him.

09:54AM 23 THE COURT: All right. And you also have reviewed
09:54AM 24 with Mr. Parlato the waiver of indictment, his rights in that
09:54AM 25 regard?

09:54AM 1 MR. GREENMAN: I have, Your Honor.

09:54AM 2 THE COURT: And the terms and conditions of the plea
09:55AM 3 agreement?

09:55AM 4 MR. GREENMAN: I have, Your Honor.

09:55AM 5 THE COURT: And his rights under Rule 11, right to a
09:55AM 6 trial, et cetera?

09:55AM 7 MR. GREENMAN: I have done that, Your Honor.

09:55AM 8 THE COURT: Now, Mr. Parlato, you have discussed this
09:55AM 9 whole matter with your attorneys. They've explained to you
09:55AM 10 what your legal rights are, what your legal options are. You
09:55AM 11 probably didn't like to hear what they had to tell you, but
09:55AM 12 they're not there to make you feel good. They're your
09:55AM 13 lawyers.

09:55AM 14 And, apparently, based on those discussions, you're here
09:55AM 15 today to waive certain rights and to plead guilty to Count 1
09:55AM 16 of the superseding information under the terms and conditions
09:55AM 17 of the plea agreement. Are you fully satisfied with the
09:55AM 18 advice and counsel you received from your lawyers?

09:55AM 19 THE DEFENDANT: Yes, Your Honor. I think the advice
09:55AM 20 and the --

09:55AM 21 THE COURT: I'm sorry. Go ahead.

09:55AM 22 THE DEFENDANT: I was going to say the zealous
09:55AM 23 representation I have had from my attorneys are very, pretty
09:55AM 24 much, exemplary. I just want to ask a question if I may.

09:55AM 25 THE COURT: Yes.

09:56AM 1 THE DEFENDANT: It's my understanding that this is
09:56AM 2 the one and only charge that I'm pleading guilty to, which was
09:56AM 3 a failure to file an 8300 form in the year 2010.

09:56AM 4 THE COURT: Mr. Kruly, this is the only charge he's
09:56AM 5 pleading guilty to?

09:56AM 6 MR. KRULY: Correct. The count is contained in the
09:56AM 7 superseding information.

09:56AM 8 THE COURT: And the indictment that's pending right
09:56AM 9 now will be ultimately dismissed?

09:56AM 10 MR. KRULY: At the time of sentencing.

09:56AM 11 THE COURT: So there will be no charges pending after
09:56AM 12 this plea?

09:56AM 13 MR. KRULY: That's correct.

09:56AM 14 THE COURT: Do you understand that, sir?

09:56AM 15 THE DEFENDANT: Yes, I do. Thank you, Your Honor.

09:56AM 16 THE COURT: Okay. And no complaints with your
09:56AM 17 attorney?

09:56AM 18 THE DEFENDANT: Just the opposite.

09:56AM 19 THE COURT: Okay. Now, this charge here is a serious
09:56AM 20 charge. And you can't be charged with this offense merely by
09:56AM 21 the government filing this piece of paper called a superseding
09:56AM 22 information. Under the law, they can't file it unless you
09:56AM 23 grant them permission; in other words, you waive your right to
09:56AM 24 have this matter presented to a Grand Jury for their
09:57AM 25 consideration. Do you understand that, sir?

09:57AM 1 THE DEFENDANT: Yes, I do.

09:57AM 2 THE COURT: Okay. And I know this case has been
09:57AM 3 pending for a long time. Mr. Greenman, you've gone through
09:57AM 4 the waiver of indictment with your client?

09:57AM 5 MR. GREENMAN: I have, Your Honor.

09:57AM 6 THE COURT: Is there any reason for me to go into any
09:57AM 7 further explanation as far as the waiver of indictment? The
09:57AM 8 indictment that was filed, there was a procedure that was used
09:57AM 9 by the government that presented all the evidence to a Grand
09:57AM 10 Jury. Based on that evidence, the indictment was returned.
09:57AM 11 He understands that's the same process that would have to be
09:57AM 12 used here to bring this charge unless he waives his right and
09:57AM 13 he voluntarily is waiving that right.

09:57AM 14 MR. GREENMAN: Your Honor, I've explained everything.
09:57AM 15 I've explained to him and he understands the entire Grand Jury
09:57AM 16 process and the waiver process. He's prepared to waive his
09:57AM 17 right to have the matter heard by the Grand Jury.

09:57AM 18 THE COURT: You understand that, sir?

09:57AM 19 THE DEFENDANT: Yes, I do.

09:57AM 20 THE COURT: The whole process that was used before
09:57AM 21 would happen here unless you waive that right. Do you have
09:58AM 22 any questions?

09:58AM 23 THE DEFENDANT: No.

09:58AM 24 THE COURT: You fully understand it?

09:58AM 25 THE DEFENDANT: Yes, sir, I do.

09:58AM 1 THE COURT: Is there any reason for me to go through
09:58AM 2 a further explanation about the waiver?

09:58AM 3 THE DEFENDANT: No, there is not, Your Honor.

09:58AM 4 THE COURT: You agree with that, Mr. Greenman?

09:58AM 5 MR. GREENMAN: I do, Your Honor.

09:58AM 6 THE COURT: Would you please read the waiver?

09:58AM 7 MR. KRULY: Yes, Judge.

09:58AM 8 The waiver reads, United States of America v. Frank R.
09:58AM 9 Parlato, Jr. I, Frank R. Parlato, Jr., the above-named
09:58AM 10 defendant, who is accused of a felony violation of Title 26,
09:58AM 11 United States Code, Sections 7203 and 6050(i), being advised
09:58AM 12 of the nature of the charge, the proposed superseding
09:58AM 13 information and of my rights, hereby waive in open court on
09:58AM 14 August 5th, 2022 prosecution by indictment, and consent that
09:58AM 15 the proceedings may be by information rather than by
09:58AM 16 indictment.

09:58AM 17 It's signed by Mr. Parlato, Mr. Cambria, and there's a
09:58AM 18 space for Your Honor to sign as well.

09:58AM 19 THE COURT: Well, I am satisfied that the waiver is a
09:59AM 20 knowing and voluntary waiver, it will be accepted by the
09:59AM 21 Court, and direct the Clerk of the Court to file the waiver as
09:59AM 22 well as the superseding information. And with that,
09:59AM 23 Mr. Kruly, let's proceed to the plea agreement.

09:59AM 24 MR. KRULY: Yes, Judge. The plea agreement reads as
09:59AM 25 follows. The defendant, Frank R. Parlato, Jr., and the United

09:59AM 1 States Attorney for the Western District of New York --

09:59AM 2 THE COURT: Just one moment. I'm sorry. Is anyone
09:59AM 3 forcing you to sign this waiver?

09:59AM 4 THE DEFENDANT: No, Your Honor.

09:59AM 5 THE COURT: Anyone threaten you in any way?

09:59AM 6 THE DEFENDANT: No, Your Honor.

09:59AM 7 THE COURT: Okay. Now we can -- I'm sorry. I didn't
09:59AM 8 mean to interrupt.

09:59AM 9 MR. KRULY: That's okay. The plea agreement reads,
09:59AM 10 the defendant, Frank R. Parlato, Jr., and the United States
09:59AM 11 Attorney for the Western District of New York, hereinafter the
09:59AM 12 government, hereby enter into a plea agreement with the terms
09:59AM 13 and conditions as set out below.

09:59AM 14 Paragraph 1. The defendant agrees to waive indictment and
09:59AM 15 to plead guilty to a one-count superseding information which
09:59AM 16 charges a violation of Title 26, United States Code, Sections
09:59AM 17 7203 and 6050(i), willful failure to file returns involving
10:00AM 18 cash transactions of more than \$10,000, for which the maximum
10:00AM 19 possible sentence is a term of imprisonment of five years, a
10:00AM 20 fine of \$25,000, a mandatory \$100 special assessment, and a
10:00AM 21 term of supervised release of up to three years. The
10:00AM 22 defendant understands that the penalties set forth in this
10:00AM 23 paragraph are the maximum penalties that can be imposed by the
10:00AM 24 Court at sentencing.

10:00AM 25 THE COURT: Do you understand that, sir?

10:00AM 1 THE DEFENDANT: Yes, I do, Your Honor.

10:00AM 2 THE COURT: Mr. Greenman, you explained to

10:00AM 3 Mr. Parlato the importance of this paragraph?

10:00AM 4 MR. GREENMAN: Yes, Your Honor.

10:00AM 5 THE COURT: What is the importance, Mr. Kruly?

10:00AM 6 MR. KRULY: Judge, paragraph 1 satisfies a

10:00AM 7 requirement of Rule 11 by notifying the defendant of the

10:00AM 8 maximum penalty. The Court also must consider but is not

10:00AM 9 bound by the Federal Sentencing Guidelines. The sentencing

10:00AM 10 guidelines went into effect on November 1st, 1987, and are

10:00AM 11 relevant to federal offenses committed after that date.

10:00AM 12 The purpose of the sentencing guidelines is to establish a

10:00AM 13 sentencing system in which courts will impose similar

10:00AM 14 sentences for similar crimes upon defendants who are similar

10:01AM 15 in ways that, according to the guidelines, are relevant to

10:01AM 16 sentencing. If the sentencing guideline procedure is

10:01AM 17 followed, the Court would impose a sentence within a range on

10:01AM 18 a sentencing table in the sentencing guidelines manual. This

10:01AM 19 range would depend on the defendant's criminal conduct and the

10:01AM 20 defendant's criminal history.

10:01AM 21 The law requires the Court to consider imposing a sentence

10:01AM 22 in accordance with the sentencing guidelines procedure. The

10:01AM 23 law permits the Court, however, to impose a reasonable

10:01AM 24 sentence without adhering to the sentencing guidelines. If

10:01AM 25 the Court decides to impose a sentence other than the one

1 prescribed by the sentencing guidelines, the Court must state
2 its reasons for doing so.

3 THE COURT: Do you understand that, sir?

4 THE DEFENDANT: Yes, I do, Your Honor.

5 THE COURT: Okay.

6 MR. KRULY: Paragraph 2 reads as follows.

7 The defendant understands that if it is determined that
8 the defendant has violated any of the terms or conditions of
9 supervised release, the defendant may be required to serve in
10 prison all or part of the term of supervised release, up to
11 two years, without credit for time previously served on
12 supervised release.

13 As a consequence, in the event the defendant is sentenced
14 to the maximum term of incarceration, a prison term imposed
15 for a violation of supervised release may result in the
16 defendant serving a sentence of imprisonment longer than the
17 statutory maximum set forth in paragraph 1 of this agreement.

18 THE COURT: Do you understand that, sir?

19 THE DEFENDANT: Yes, I do, Your Honor.

20 MR. KRULY: Paragraph 3. The defendant understands
21 the nature of the offense set forth in paragraph 1 of this
22 agreement, and understands that if this case proceeded to
23 trial, the government would be required to prove beyond a
24 reasonable doubt the following elements of the crime; A, the
25 defendant was engaged in a trade or business; B, in the course

10:02AM 1 of the trade or business, the defendant received more than
10:02AM 2 \$10,000 in cash in one transaction or two or more related
10:02AM 3 transactions; C, the defendant failed to make a return to the
10:02AM 4 Internal Revenue Service with respect to such transaction or
10:02AM 5 transactions as required by the Internal Revenue Code; and D,
10:02AM 6 the defendant acted willfully.

10:03AM 7 THE COURT: Do you understand that, Mr. Parlato?

10:03AM 8 THE DEFENDANT: Yes, I do, Your Honor.

10:03AM 9 THE COURT: Okay.

10:03AM 10 MR. KRULY: Factual basis. The defendant and the
10:03AM 11 government agree to the following facts which form the basis
10:03AM 12 for the entry of the plea of guilty including relevant
10:03AM 13 conduct.

10:03AM 14 From approximately 2004 to 2017, in the Western District
10:03AM 15 of New York, the defendant had an ownership interest in and/or
10:03AM 16 managed real property known as the One Niagara Building in
10:03AM 17 Niagara Falls, New York, hereinafter referred to as One
10:03AM 18 Niagara. Following the defendant's acquisition of One
10:03AM 19 Niagara, he permitted vendors to lease space both inside and
10:03AM 20 outside the building. These vendors cater to tourists and
10:03AM 21 sold food, souvenirs, and tours of Niagara Falls.

10:03AM 22 One Niagara's business was typically busy in the summer
10:03AM 23 when large numbers of tourists visited Niagara Falls. Thus,
10:03AM 24 for each season, the defendant managed One Niagara. He
10:03AM 25 negotiated new seasonal rental agreements with the building's

1 vendors. These rental agreements typically had required each
2 vendor to pay the defendant 25 percent of the vendors' gross
3 revenue as rent. The defendant, or one of his agents,
4 typically collected rent from each vendor in cash.

5 The Internal Revenue Code required the defendant to file
6 an IRS Form 8300 when, in the course of operating One Niagara,
7 the defendant received annual cash rent payments in excess of
8 \$10,000 in one transaction or two or more related
9 transactions. During the time period that he owned and/or
10 managed One Niagara, the defendant willfully failed to file
11 IRS Form 8300 for annual cash rent payments he received from
12 One Niagara's vendors which were in excess of \$10,000.

13 By way of example, in or around 2008, Vendor 1, who
14 operated a food stand, agreed to rent space at One Niagara in
15 exchange for 25 percent of Vendor 1's gross sales. In 2010,
16 Vendor 1 paid the defendant approximately \$19,970 in rent.
17 This was paid entirely in cash. The defendant's agents,
18 acting at the defendant's direction, collected the cash rent
19 in various unscheduled days throughout the summer. Although
20 each individual partial rent payment was in an amount less
21 than \$10,000, in aggregate, Vendor 1 paid the defendant
22 approximately \$19,970 in rent in 2010.

23 The defendant willfully failed to file an IRS Form 8300
24 with regard to his receipt of cash rent from Vendor 1 for the
25 2010 season. As part of relevant conduct, the defendant

10:05AM 1 admits that, from 2006 to 2017, he failed to report income he
10:05AM 2 earned from managing One Niagara. The tax loss from the
10:05AM 3 defendant's unreported income was approximately \$390,346.

10:05AM 4 THE COURT: Do you understand that, sir?

10:05AM 5 THE DEFENDANT: Yes, I do, with just one question,
10:05AM 6 Your Honor. It is my understanding that there was -- the only
10:05AM 7 charge here is just the -- as written in item D, that there is
10:06AM 8 not numerous -- I'm not admitting to numerous failure to file,
10:06AM 9 just this one instance.

10:06AM 10 MR. GREENMAN: Judge, we believe that section 4,
10:06AM 11 subdivision D, reflects the allegation in the superseding
10:06AM 12 information that he is pleading guilty on one occasion for not
10:06AM 13 having filed an 8300 form because the aggregate of numerous
10:06AM 14 multiple payments exceeded \$10,000 in cash. That is the only
10:06AM 15 thing he is pleading guilty to and I think the government
10:06AM 16 would agree.

10:06AM 17 THE COURT: You agree with that, Mr. Kruly?

10:06AM 18 MR. KRULY: Yes, Judge.

10:06AM 19 THE COURT: Okay. It's on the record. Okay.

10:06AM 20 THE DEFENDANT: Okay. Thank you, Your Honor.

10:06AM 21 THE COURT: How would you prove all this Mr. Kruly?

10:06AM 22 MR. KRULY: Judge, if this case were to proceed to
10:06AM 23 trial, the government would offer testimony from a vendor who
10:06AM 24 leased space at the One Niagara building in Niagara Falls, New
10:07AM 25 York during the time period that the defendant owned and/or

1 managed the One Niagara building. The vendor would testify
2 that he leased space at the building to sell food, and he
3 would testify that he negotiated a lease with the defendant
4 that typically required him to pay the defendant 25 percent of
5 his gross revenue as rent. He would testify he paid the rent
6 in cash on different occasions. He would testify that his
7 cash rent paid to the defendant over the course of Summer 2010
8 exceeded \$10,000.

9 The government would then offer testimony from an IRS
10 witnesses who would testify that individuals engaged in a
11 trade or business are required to file IRS Form 8300 when they
12 receive more than \$10,000 in cash in a transaction or a series
13 of transactions and that witness would testify that the IRS
14 had no record of receiving a Form 8300 related to the
15 defendant's management of the One Niagara building.

16 THE COURT: Do you understand that, sir?

17 THE DEFENDANT: Yes, I do, Your Honor.

18 MR. KRULY: Paragraph 5. The defendant understands
19 that the Court must consider but is not bound by the
20 sentencing guidelines, Sentencing Reform Act of 1984.

21 Paragraph 7.

22 THE COURT: Paragraph 6 has been crossed off?

23 MR. KRULY: That's correct, Your Honor.

24 THE COURT: And it's been initialed by the parties?

25 MR. KRULY: Correct. And paragraph 7 incorporates --

1 paragraph 7 reads, the government and the defendant agree that
2 Guideline Sections 2S1.3, and 2T1.9, and 2T4.1(g) applied to
3 the offense of conviction, and based on tax loss of \$390,346,
4 provides for a base offense level of 18.

5 THE COURT: All right. Mr. Parlato, I know your
6 lawyers have spent some time with you going over the
7 guidelines. I want to take a couple of minutes to explain
8 them to you. Your lawyers will have done a much better job
9 than I'm about to, but I want to make sure that we cover
10 certain points. Back in the 80's, 1980's and that, Congress
11 was concerned about individuals committing similar crimes
12 under similar circumstances were receiving very dissimilar
13 sentences.

14 You can image what it would be like -- let's assume that
15 there was -- someone was going to plead guilty to the charge
16 you're pleading guilty to today, which has a five-year
17 maximum. And there were two different people that were
18 involved. The first person pleads guilty. The judge
19 sentenced that person to probation. The second person says,
20 well, judge seems to be a pretty good guy. He gave the other
21 guy probation. My situation is exactly the same as that -- my
22 co-defendant. The judge will give me probation, too, so I'll
23 plead guilty.

24 So, the second person pleads guilty, and the Judge puts
25 the person in jail for five years. Well, the person would say

1 well, that's not fair. Why did he get probation, the first
2 guy? I'm the second guy, and I get five years?

3 Well, that may be an exaggerated example, but it goes to
4 show what could have happened. It may have been happening in
5 various courts throughout the United States. So, Congress was
6 concerned about this. It's called the unwarranted disparity
7 at sentencing.

8 So, they decided that we have to have a commission to look
9 at this problem to make sure that individuals committing
10 similar crimes under similar circumstances should receive
11 somewhat of a similar sentence. So, they formed a commission.
12 There are seven commissioners appointed by the President,
13 confirmed by the Senate. And it was their job to fix this
14 problem. And it was a huge, huge undertaking. The commission
15 that was appointed took a number of years to come up with a
16 guideline manual to deal with this problem.

17 This is -- every year, there's like a new manual. This is
18 like the Bible. It's like -- kind of like a roadmap, you
19 might say. If you want to go AAA to find how do you drive to
20 Chicago, the map will tell you. That's what this book does.
21 It's very, very complicated, okay? And, in my opinion,
22 there's probably been more litigation on these guidelines than
23 probably any other area of federal law. Now, what they did,
24 they took every federal statute and decided to give it a
25 number, 1 to 43. And you saw these table with all these

10:11AM 1 numbers on it?

10:11AM 2 THE DEFENDANT: Yes, I did, Your Honor.

10:11AM 3 THE COURT: Yeah. In the left-hand margin, you'll
10:11AM 4 see one at the top of the page on the left-hand column all the
10:11AM 5 way down to the bottom, 43 numbers. Every violation of every
10:11AM 6 federal statute gets a number. The higher the number, the
10:11AM 7 more serious the offense, okay?

10:11AM 8 Now, it's been determined that, for this particular
10:11AM 9 violation, the superseding information, that the starting
10:11AM 10 number, it's a starting number, starts off with number 18.
10:11AM 11 That's right about here (indicating). Right about the middle
10:12AM 12 of the page, okay? Now, the purpose here is, like, trying to,
10:12AM 13 like, I guess Mr. Greenman is more familiar than I am, getting
10:12AM 14 a tailor-made suit. You want the suit to fit the individual,
10:12AM 15 okay?

10:12AM 16 So, there's aggravating and mitigating circumstances that
10:12AM 17 would cause the number to go up or down. Mitigating would go
10:12AM 18 up, aggravating would go down, until you get a situation where
10:12AM 19 the final number is -- fits the individual, the individual's
10:12AM 20 involvement in the crime. We're going to go through this in a
10:12AM 21 couple of minutes. I know that you've gone through it.

10:12AM 22 Then, once that's happened, then they decide whether a
10:12AM 23 person has a criminal record or not. No criminal record,
10:12AM 24 you're in column I, which is the most favorable. If you have
10:12AM 25 a prior criminal record, depending upon the degree of your

10:12AM 1 involvement in criminal activity, it could be in column II,
10:12AM 2 III, IV, V, or VI. The larger the criminal history category
10:13AM 3 is, the more punishment you would face. So, I'm not sure. In
10:13AM 4 this case here, you are in paragraph -- column I?

10:13AM 5 MR. KRULY: Yes.

10:13AM 6 MR. GREENMAN: He's a category I.

10:13AM 7 THE COURT: Which is the most favorable. Then, when
10:13AM 8 that's all done, then there are some other factors, and we'll
10:13AM 9 go through those in a few minutes. Do you understand all
10:13AM 10 this, sir? This is basically -- this is all done.

10:13AM 11 THE DEFENDANT: Yes, I do, Your Honor.

10:13AM 12 THE COURT: Okay. All right. Let's go from there,
10:13AM 13 Mr. Kruly.

10:13AM 14 MR. KRULY: Yes, Judge. So, as we stated, paragraph
10:13AM 15 7 sets the base offense level at an 18 based on guidelines
10:13AM 16 2S1.3, 2T1.9, and 2T4.1(g) which are incorporated by cross-
10:13AM 17 reference in 2S1.3.

10:13AM 18 Paragraph 8 states that the government and the defendant
10:13AM 19 agree that the following specific offense characteristic does
10:13AM 20 apply; the two-level increase pursuant to Guideline Section
10:13AM 21 2T1.1(b) (2), sophisticated means.

10:13AM 22 Paragraph 9. Based on the foregoing, it is the
10:13AM 23 understanding of the government and the defendant that the
10:14AM 24 adjusted offense level for the offense of conviction is 20.

10:14AM 25 THE COURT: Do you understand that, sir?

10:14AM 1 THE DEFENDANT: Yes, I do, Your Honor.

10:14AM 2 MR. KRULY: Paragraph 10. At sentencing, the
10:14AM 3 government agrees not to oppose the recommendation that the
10:14AM 4 Court apply the two-level decrease of Guidelines Section
10:14AM 5 3E1.1(a), acceptance of responsibility, and further agrees to
10:14AM 6 move the Court to apply the additional one-level decrease of
10:14AM 7 Guideline Section 3E1.1(b), which would result in a total
10:14AM 8 offense level of 17.

10:14AM 9 THE COURT: Now, this provision is there that if a
10:14AM 10 person is guilty of the offense and willing to accept
10:14AM 11 responsibility, and by pleading guilty it's evidence you are
10:14AM 12 accepting responsibility, you can get a reduction. In this
10:14AM 13 case, it would be three levels which, if you look at the two
10:14AM 14 numbers with the acceptance and without, you've got a 17
10:14AM 15 versus 20.

10:14AM 16 If you look at 20 at the high end versus 17 at the low
10:14AM 17 end -- no guarantee you'll get the lower end -- but it gives
10:15AM 18 you and your lawyer a chance to argue for a lower sentence
10:15AM 19 that, by not requiring the government to go to trial, you
10:15AM 20 should get a lower recommended sentence, all right? Now, I'm
10:15AM 21 not bound by it, but I'm going to carefully consider it,
10:15AM 22 obviously, as I will consider all the factors in imposing
10:15AM 23 sentence.

10:15AM 24 If you were to go to trial, and if you were convicted, in
10:15AM 25 all likelihood, you wouldn't get the acceptance. And, as I

10:15AM 1 understand it, if we go to trial, it would be on the original
10:15AM 2 indictment.

10:15AM 3 MR. KRULY: That's correct, Your Honor.

10:15AM 4 THE COURT: Which would have much higher --

10:15AM 5 MR. KRULY: Higher guidelines.

10:15AM 6 THE COURT: -- guideline range. Do you understand
10:15AM 7 that, sir?

10:15AM 8 THE DEFENDANT: Yes, I do, Your Honor.

10:15AM 9 THE COURT: This is what your lawyers have discussed,
10:15AM 10 the government, and the government has agreed to go along with
10:15AM 11 this. Do you understand that?

10:15AM 12 THE DEFENDANT: Yes, I do, Your Honor.

10:15AM 13 THE COURT: Okay.

10:15AM 14 MR. KRULY: Paragraph 11.

10:15AM 15 THE COURT: Mr. Greenman, do I have to go into any
10:15AM 16 further explanation?

10:15AM 17 MR. GREENMAN: You've done very well, except that the
10:15AM 18 tailored suit, Your Honor. You can attribute to Mr. Cambria,
10:15AM 19 not me.

10:15AM 20 MR. KRULY: Paragraph 11. It is the understanding of
10:15AM 21 the government and the defendant that the defendant's criminal
10:16AM 22 history category is I. The defendant understands that if the
10:16AM 23 defendant is sentenced for or convicted of any other charges
10:16AM 24 prior to sentencing in this action, the defendant's criminal
10:16AM 25 history category may increase. The defendant understands that

10:16AM 1 the defendant has no right to withdraw the plea of guilty
10:16AM 2 based on the Court's determination of the defendant's criminal
10:16AM 3 history category.

10:16AM 4 Paragraph 12. It is the understanding of the government
10:16AM 5 and the defendant that, with a total offense level of 17 and
10:16AM 6 criminal history category of I, the defendant's sentencing
10:16AM 7 range would be a term of imprisonment of 24 to 30 months, a
10:16AM 8 fine of 10,000 to \$25,000, and a period of supervised release
10:16AM 9 of one to three years. Notwithstanding this, the defendant
10:16AM 10 understands that, at sentencing, the defendant is subject to
10:16AM 11 the maximum penalties set forth in paragraph 1 of this
10:16AM 12 agreement.

10:16AM 13 Paragraph 13. The government and the defendant agree to
10:16AM 14 the correctness of the calculation of the sentencing
10:16AM 15 guidelines range set forth above. The defendant, however,
10:16AM 16 reserves the right to recommend a sentence outside the
10:17AM 17 sentencing guidelines range. The government agrees that it
10:17AM 18 will not recommend a sentence greater than 24 months
10:17AM 19 imprisonment. This paragraph reserves the right of the
10:17AM 20 government and the defendant to bring to the attention of
10:17AM 21 Court all information deemed relevant to a determination of a
10:17AM 22 proper sentence in this action.

10:17AM 23 Paragraph 14. The defendant --

10:17AM 24 THE COURT: Just one second. Now, paragraph 13
10:17AM 25 indicates that the government agrees to recommend a sentence

10:17AM 1 no greater than 24 months. And your attorneys and you're
10:17AM 2 agreeing that you will have an opportunity to request the
10:17AM 3 Court for a lower sentence. So, you haven't precluded
10:17AM 4 yourself from asking for a lower sentence. I'll consider it,
10:17AM 5 but don't have any false impressions that I will do it. I
10:17AM 6 will consider all the factors here and, to the best of my
10:17AM 7 ability, impose a sentence that would be fair and reasonable.
10:17AM 8 Do you understand that, sir?

10:18AM 9 THE DEFENDANT: Yes, I do, Your Honor.

10:18AM 10 THE COURT: Okay. Paragraph 14.

10:18AM 11 MR. KRULY: Paragraph 14. The defendant understands
10:18AM 12 that the Court is not bound to accept any sentencing
10:18AM 13 guidelines calculations set forth in this agreement, and the
10:18AM 14 defendant will not be entitled to withdraw the plea of guilty
10:18AM 15 based on the sentence imposed by the Court.

10:18AM 16 Paragraph 15. In the event the Court contemplates any
10:18AM 17 guidelines adjustments, departures, or calculations different
10:18AM 18 from those agreed to by the parties above, the parties reserve
10:18AM 19 the right to answer any inquiries by the Court concerning the
10:18AM 20 same.

10:18AM 21 Paragraph 16. In the event the defendant's plea of guilty
10:18AM 22 is withdrawn or conviction vacated either pre or post-sentence
10:18AM 23 by way of appeal, motion, post-conviction proceeding,
10:18AM 24 collateral attack or otherwise, the defendant agrees that any
10:18AM 25 charges dismissed pursuant to this agreement shall be

10:18AM 1 automatically reinstated upon motion of the government and
10:18AM 2 further agrees not to assert the Statute of Limitations as a
10:18AM 3 defense to any federal criminal offense which is not time
10:18AM 4 barred as of the date of this agreement. This waiver shall be
10:18AM 5 effective for a period of six months following the date upon
10:19AM 6 which the withdrawal of the guilty plea or vacating of the
10:19AM 7 conviction becomes final.

10:19AM 8 Paragraph 17. By pleading guilty to the superseding
10:19AM 9 information pursuant to this plea agreement, the defendant
10:19AM 10 agrees that he has waived and may not challenge at sentencing
10:19AM 11 on direct appeal or collateral attack whether the charge
10:19AM 12 contained in the superseding information is time barred by the
10:19AM 13 Statute of Limitations.

10:19AM 14 THE COURT: Do you understand all this, sir?

10:19AM 15 THE DEFENDANT: Yes, I do, Your Honor.

10:19AM 16 MR. KRULY: Paragraph 18. The defendant represents
10:19AM 17 that he is a citizen of the United States. However, if the
10:19AM 18 defendant is not a citizen of the United States, the defendant
10:19AM 19 understands that, if convicted, the defendant may be removed
10:19AM 20 from the United States, denied citizenship, and denied
10:19AM 21 admission to the United States in the future.

10:19AM 22 THE COURT: Do you understand that, sir?

10:19AM 23 THE DEFENDANT: Yes, I do, Your Honor.

10:19AM 24 THE COURT: It appears that you are a US citizen. If
10:19AM 25 it were determined that, let's say, you were a citizen of

10:19AM 1 England, after the sentence, the immigration authorities would
10:20AM 2 look at your citizenship. And if it were determined you were
10:20AM 3 a citizen of England, you could be deported to England. But
10:20AM 4 that probably, in all likelihood, is not going to happen.
10:20AM 5 Just so you're aware of that, okay? The Second Circuit has
10:20AM 6 done a number of opinions on this lately, and the courts have
10:20AM 7 to be very careful in that regard. All right? Thank you. Go
10:20AM 8 ahead, Mr. Kruly.

10:20AM 9 MR. KRULY: Paragraph 19. The defendant understands
10:20AM 10 that the government has reserved the right to; A, provide to
10:20AM 11 the probation office and the Court all the information and
10:20AM 12 evidence in its possession that the government deems relevant
10:20AM 13 concerning the defendant's background, character, and
10:20AM 14 involvement in the offense charged, the circumstances
10:20AM 15 surrounding the charge, and the defendant's criminal history;
10:20AM 16 B, respond at sentencing to any statements made by the
10:20AM 17 defendant or on the defendant's behalf that are inconsistent
10:20AM 18 with the information and evidence available to the government;
10:20AM 19 C, advocate for a specific sentence consistent with the terms
10:20AM 20 of this agreement including the amount of restitution and/or a
10:20AM 21 fine and the method of payment; D, modify its position with
10:21AM 22 respect to any sentencing recommendation or sentencing factor
10:21AM 23 under the guidelines, including criminal history category, in
10:21AM 24 the event that, subsequent to this agreement, the government
10:21AM 25 receives previously unknown information including conduct and

10:21AM 1 statements by the defendant subsequent to this agreement
10:21AM 2 regarding the recommendation or factor; and E, impose any
10:21AM 3 application for a downward departure and/or sentence outside
10:21AM 4 the guideline range made by the defendant.

10:21AM 5 Twenty. At sentencing, the government will move to
10:21AM 6 dismiss the superseding indictment in this action as against
10:21AM 7 this defendant.

10:21AM 8 THE COURT: Do you understand that, sir?

10:21AM 9 THE DEFENDANT: Yes, I do, Your Honor.

10:21AM 10 THE COURT: Okay.

10:21AM 11 MR. KRULY: Judge, would the Court like me to read or
10:21AM 12 summarize the restitution section?

10:21AM 13 MR. GREENMAN: That's fine with us, Your Honor.

10:21AM 14 THE COURT: Let's read it.

10:21AM 15 MR. KRULY: Yes, Your Honor.

10:21AM 16 Paragraph 21. The defendant agrees to pay restitution to
10:21AM 17 the Internal Revenue Service in the total amount of
10:21AM 18 \$184,939.51 pursuant to Title 18, USC Section 36639(a)(3).

10:22AM 19 The defendant understands the defendant will not be entitled
10:22AM 20 to withdraw the plea of guilty based upon any restitution
10:22AM 21 amount ordered by the Court.

10:22AM 22 The restitution amount has been calculated as follows.
10:22AM 23 And there follows a chart for tax years 2006 through 2017, and
10:22AM 24 the total amount of -- including interest and penalties -- of
10:22AM 25 restitution is \$184,939.51, which is broken down as set forth

10:22AM 1 in this chart based on tax year.

10:22AM 2 Paragraph 22. The defendant agrees that \$184,939.51 of
10:22AM 3 the \$407,250.23 in United States currency seized from KeyBank
10:22AM 4 account ending in 0606 in the name of Frank R. Parlato IOLA
10:22AM 5 Fund attorney escrow account/IOLA, which was seized by the
10:23AM 6 government in August 27th, 2015, will be turned over from the
10:23AM 7 United States Marshal Service to the Clerk's Office for the
10:23AM 8 Western District of New York and applied to the restitution
10:23AM 9 judgment entered in this case.

10:23AM 10 Paragraph 23. The defendant agrees that the total amount
10:23AM 11 of restitution reflected in this agreement results from the
10:23AM 12 defendant's underlying conduct.

10:23AM 13 THE COURT: Mr. Kruly, before you go any further, I
10:23AM 14 note that in the plea agreement under the statement of facts
10:23AM 15 there's an amount of 390,346 and then we're dealing with here
10:23AM 16 number of 184,000 of the 407,000. A lot of numbers floating
10:23AM 17 around here.

10:23AM 18 MR. KRULY: Yes. And that difference, Judge, is the
10:23AM 19 basis for one of the handwritten changes on page 15, which
10:23AM 20 I'll read now. I think it fits in here.

10:23AM 21 Paragraph 44A. The parties agree that for tax years 2006
10:23AM 22 through 2013, the defendant paid approximately \$260,614 out of
10:23AM 23 the \$390,346 stated in paragraph 4B. So, essentially, Judge,
10:24AM 24 the tox loss for purposes of the guidelines calculation is
10:24AM 25 390,000, but the defendant paid approximately 260,000 of that

10:24AM 1 tax amount, which is why the restitution is lower.

10:24AM 2 THE COURT: Do you understand that, sir?

10:24AM 3 THE DEFENDANT: Yes, I do, Your Honor.

10:24AM 4 MR. KRULY: Paragraph 24. The defendant agrees to
10:24AM 5 pay restitution by making payment as ordered by the Court and
10:24AM 6 any restitution order entered pursuant to this plea agreement.

10:24AM 7 Paragraph 25. If the Court orders the defendant to pay
10:24AM 8 restitution to the IRS for the failure to pay tax either
10:24AM 9 directly as part of the sentence or as a condition of
10:24AM 10 supervised release, the IRS will use the restitution order as
10:24AM 11 a basis for a civil assessment. The citation is 26 USC
10:24AM 12 Section 6201(a)(4). The defendant does not have the right to
10:24AM 13 challenge the amount of this assessment. See 26 USC Section
10:24AM 14 6201(a)(4)(C).

10:24AM 15 Neither the existence of a restitution payment schedule or
10:25AM 16 the defendant's timely payment of restitution according to
10:25AM 17 that schedule will preclude the IRS from administrative
10:25AM 18 collection of the restitution-based assessment, including levy
10:25AM 19 and restrained under 26 USC, Section 6331.

10:25AM 20 Paragraph 26. The defendant agrees the defendant will not
10:25AM 21 oppose bifurcation of the sentencing hearing under 18 USC
10:25AM 22 Section 3664(d)(5) if the victims' losses are not as
10:25AM 23 ascertainable prior to sentencing.

10:25AM 24 Paragraph 27. The defendant agrees the defendant will
10:25AM 25 sign any IRS forms deemed necessary by the IRS to enable the

10:25AM 1 IRS to make an immediate assessment of that portion of the tax
10:25AM 2 interest that he agrees to pay as restitution. The defendant
10:25AM 3 also agrees to sign IRS Form 8821, "Tax Information
10:25AM 4 Authorization".

10:25AM 5 Paragraph 28.

10:25AM 6 THE COURT: Just one second. Paragraph 26 talks
10:25AM 7 about victims. What are we talking about here?

10:26AM 8 MR. KRULY: The IRS, Judge. So, I don't think this
10:26AM 9 paragraph was really applicable here, but it's part of our
10:26AM 10 standard restitution language that we typically, I don't
10:26AM 11 think, read at pleas.

10:26AM 12 THE COURT: The victim is the IRS.

10:26AM 13 MR. KRULY: Correct.

10:26AM 14 THE COURT: Okay. All right.

10:26AM 15 MR. GREENMAN: Judge, just so the Court is aware --
10:26AM 16 and I've had conversation with Ms. Carducci who is from the
10:26AM 17 government's forfeiture department. We expect that there may
10:26AM 18 be a civil penalty imposed by the IRS. Whatever they impose,
10:26AM 19 it will not preclude Mr. Parlato from challenging whatever
10:26AM 20 that might be. It's not part of this proceeding. It's a
10:26AM 21 totally separate proceeding.

10:26AM 22 THE COURT: Okay.

10:26AM 23 MR. GREENMAN: But we all understand and the intent
10:26AM 24 of the plea agreement is that the plea agreement here will not
10:26AM 25 bar him from taking whatever action he deems to be necessary

10:26AM 1 as to the possibility of the IRS imposing civil penalty.

10:27AM 2 THE COURT: Do you understand that, Mr. Parlato?

10:27AM 3 THE DEFENDANT: Yes, I do, Your Honor.

10:27AM 4 MR. KRULY: Paragraph 28. The defendant agrees not
10:27AM 5 to file any claim for refund of taxes or interest represented
10:27AM 6 by any amount of restitution paid pursuant to this agreement.

10:27AM 7 Paragraph 29. The defendant agrees the defendant is
10:27AM 8 liable for the fraud penalty 26 USC Section 6663 or 26 USC
10:27AM 9 Section 6651(f) on the amount credited and tax set forth
10:27AM 10 above. The defendant agrees to the immediate assessment of
10:27AM 11 the fraud penalty on the amount to be credited to tax set
10:27AM 12 forth above and agrees that in order to enable the IRS to make
10:27AM 13 an immediate assessment of the fraud penalty, any IRS forms
10:27AM 14 the defendant agreed to sign as set forth above will include
10:27AM 15 the appropriate amount of fraud penalty. The defendant agrees
10:27AM 16 not to challenge or dispute any criminal fraud penalties on
10:27AM 17 the amount to be credited to tax set forth above.

10:27AM 18 Paragraph 30. The defendant understand -- the parties
10:27AM 19 understand the defendant will receive proper credit consistent
10:28AM 20 with the above for the payments made pursuant to this
10:28AM 21 agreement. Except as set forth in the previous sentence,
10:28AM 22 nothing in this agreement shall limit the IRS in its lawful
10:28AM 23 examination, determination, assessment, or collection of any
10:28AM 24 taxes, penalties, or interest due from the defendant from the
10:28AM 25 time periods covered by this agreement or any other time

1 period.

2 Paragraph 31. The defendant agrees this agreement and any
3 judgement, order, release, or satisfaction made in connection
4 with this agreement will not satisfy, settle or compromise the
5 defendant's obligation to pay the balance of any remaining
6 civil liabilities including tax, additional tax, additions to
7 tax, interest and penalties owed to the IRS for the time
8 periods covered by this agreement or any other time period.

9 Paragraph 32. The defendant understands the defendant is
10 not entitled to credit with the IRS for any payments sent to
11 an incorrect address or accompanied by incomplete or
12 inaccurate information unless and until any payment is
13 actually received by the Internal Revenue Service and
14 identified as pertaining to the defendant's particular
15 liability.

16 Paragraph 33. The defendant agrees to disclose fully and
17 completely all assets of which the defendant either has any
18 property interest or over which the defendant exercises
19 control, directly or indirectly, including those held by a
20 spouse, nominee, or other third party. The defendant agrees
21 to make complete financial disclosure to the United States by
22 truthfully executing a sworn financial statement by the
23 deadline set by the United States; or, if no deadline is set,
24 no later than two weeks prior to the date of sentencing. The
25 defendant agrees to authorize the release of all financial

1 information requested by the United States including but not
2 limited to executing authorization forms for the United States
3 to obtain tax information, bank account records, credit
4 history, and Social Security information. The defendant
5 agrees to discuss or to answer any questions by the United
6 States relating to the defendant's complete financial
7 disclosure.

8 The defendant will submit to an examination under oath
9 and/or a polygraph examination conducted by an examiner
10 selected by the U.S. Attorney's Office on the issue of the
11 defendant's financial disclosures and assets if deemed
12 necessary by the US Attorney's Office.

13 The defendant certifies that the defendant has made no
14 transfer of assets in contemplation of this prosecution for
15 the purpose of evading or defeating financial obligations that
16 are created by the agreement and/or that may be imposed upon
17 the defendant by the Court. In addition, the defendant
18 promises that the defendant will make no such transfers in the
19 future.

20 Paragraph 34. The defendant understands and agrees that
21 the Court, at the time of sentencing, will order that all
22 monetary penalties imposed at that time including any fine,
23 restitution or special assessment imposed in accordance with
24 the terms and conditions of this plea agreement, are to be due
25 and payable in full immediately and will be; 1, subject to

1 immediate enforcement as provided for in 18 USC 3613; and 2,
2 submitted to the Treasury Offset Program, so that any federal
3 payment or transfer of returned property the defendant
4 receives may be offset and applied to federal debts, but will
5 not affect any periodic payment schedule set by the Court.

6 Paragraph 35. The defendant understands and acknowledges
7 that any schedule of payments imposed by the Court at the time
8 of sentencing is merely a minimum schedule of payments, and
9 does not, in any way, limit those methods available to the
10 United States to enforce the judgment.

11 Paragraph 36. The defendant agrees that any funds and
12 assets in which the defendant has an interest which have been
13 seized or restrained by the government or law enforcement as
14 part of the investigation underlying this plea agreement, and
15 not subject to forfeiture, will be used to offset any judgment
16 of restitution and fine imposed pursuant to this plea
17 agreement or to satisfy any debts owed by the defendant to the
18 United States and/or agencies thereof.

19 Paragraph 37. To the extent that the defendant has an
20 interest, the defendant authorizes the district court clerk to
21 release any funds posted as security for the defendant's
22 appearance bond in this case which funds shall be applied to
23 satisfy the financial obligations of the defendant pursuant to
24 the judgment of the Court.

25 Paragraph 38. The defendant is aware that the voluntary

10:32AM 1 payment of restitution prior to adjudication of guilt is a
10:32AM 2 factor in considering whether the defendant has accepted
10:32AM 3 responsibility under United States Sentencing Guideline
10:32AM 4 Section 3E1.1.

10:32AM 5 THE COURT: Do you understand all this, sir?

10:32AM 6 THE DEFENDANT: I do understand it. Just -- I did
10:32AM 7 have a question, if I may, Your Honor. It's my understanding
10:32AM 8 that the money that's been seized in 2015 satisfies the
10:33AM 9 entirety of the assessment of the taxes.

10:33AM 10 MR. GREENMAN: That's correct. It's all set out in
10:33AM 11 paragraph 42, Your Honor.

10:33AM 12 THE COURT: Okay. Mr. Kruly?

10:33AM 13 MR. KRULY: Can you repeat that, Mr. Greenman?

10:33AM 14 MR. GREENMAN: That's all set out -- what his
10:33AM 15 question relates to is set out in paragraph 42 of the plea
10:33AM 16 agreement.

10:33AM 17 MR. KRULY: That the seized funds will be used to
10:33AM 18 satisfy the restitution payment?

10:33AM 19 MR. GREENMAN: Correct.

10:33AM 20 MR. KRULY: Correct.

10:33AM 21 THE COURT: All right.

10:33AM 22 MR. KRULY: Paragraph 39. The defendant understands
10:33AM 23 that Title 18, United States Code, Section 3742, affords a
10:33AM 24 defendant a limited right to appeal the sentence imposed. The
10:33AM 25 defendant, however, knowingly waives the right to appeal and

10:33AM 1 collaterally attack any component of a sentence imposed by the
10:33AM 2 Court which falls within or is less than the sentencing range
10:33AM 3 for imprisonment, a fine, and supervised release set forth in
10:33AM 4 section 3, paragraph 12 above; notwithstanding the manner in
10:34AM 5 which the Court determines the sentence. In the event of an
10:34AM 6 appeal of the defendant's sentence by the government, the
10:34AM 7 defendant reserves the right to argue the correctness of the
10:34AM 8 defendant's sentence. The defendant further agrees not to
10:34AM 9 appeal the restitution order which does not exceed the amount
10:34AM 10 set forth in section 7 of this agreement.

10:34AM 11 Paragraph 40. The defendant understands that by agreeing
10:34AM 12 not to collaterally attack the sentence, the defendant is
10:34AM 13 waiving the right to challenge the sentence in the event that,
10:34AM 14 in the future, the defendant becomes aware of previously
10:34AM 15 unknown facts or a change in the law which the defendant
10:34AM 16 believes would justify a decrease in the defendant's sentence.

10:34AM 17 Paragraph 41. The government waives its right to appeal
10:34AM 18 any component of a sentence imposed by the Court which falls
10:34AM 19 within or is greater than the sentencing range for
10:34AM 20 imprisonment, a fine, and supervised release set forth in
10:34AM 21 section 3, paragraph 12 above; notwithstanding the manner in
10:34AM 22 which the Court determines the sentence. However, in the
10:34AM 23 event of an appeal from the defendant's sentence by the
10:34AM 24 defendant, the government reserves its right to argue the
10:35AM 25 correctness of the defendant's sentence.

10:35AM 1 THE COURT: Do you understand that, sir?

10:35AM 2 THE DEFENDANT: Yes, I do, Your Honor.

10:35AM 3 THE COURT: Okay.

10:35AM 4 MR. KRULY: Paragraph 42. The defendant acknowledges
10:35AM 5 that the government has commenced a civil forfeiture action
10:35AM 6 against \$131,901.65 United States currency seized from Bank of
10:35AM 7 America account ending in 8448 in the name of New York IOLA
10:35AM 8 trust accounts, Frank R. Parlato, trustee; \$460,986.32 United
10:35AM 9 States currency seized from First Niagara Bank account ending
10:35AM 10 in 4836 in the name of Frank Parlato IOLA fund, State of New
10:35AM 11 York; and \$222,310.72 out of the \$407,250.23 United States
10:36AM 12 currency seized from KeyBank account ending in 0606 in the
10:36AM 13 name of Frank R. Parlato, IOLA fund, attorney escrow
10:36AM 14 account/IOLA all seized by the government on August 27th,
10:36AM 15 2015, hereinafter referred to as the defendant accounts under
10:36AM 16 22-CV-00601.

10:36AM 17 As part of this plea agreement, the defendant agrees to
10:36AM 18 the execution and filing of a civil agreement and agrees to
10:36AM 19 civilly forfeit the defendant accounts to the government. The
10:36AM 20 defendant agrees to execute any other documents the United
10:36AM 21 States deems necessary to resolve the civil forfeiture action.
10:36AM 22 In addition, as part of this plea agreement, the government
10:36AM 23 will not seek forfeiture of the real property located at 29009
10:36AM 24 Geranium Drive, Big Pine Key, Florida, as more fully described
10:36AM 25 in the deed filed and recorded in the official records of the

10:36AM 1 clerk of the court, Monroe County, Florida on April 8th, 2011
10:36AM 2 and has reference to the liber page for that property; or the
10:36AM 3 real property located at 199 Tonawanda Creek Road, Amherst,
10:37AM 4 New York.

10:37AM 5 Paragraph 43. It's expressly agreed and understood that
10:37AM 6 the agreement for civil forfeiture is binding upon the
10:37AM 7 defendant and survives any voiding of this plea agreement.

10:37AM 8 Paragraph 44. The defendant agrees --

10:37AM 9 THE COURT: Are you referring to the complaint that
10:37AM 10 was filed in US v. 131,000?

10:37AM 11 MR. KRULY: That's correct, Your Honor.

10:37AM 12 THE COURT: I see on the complaint there's no number
10:37AM 13 on that, on the caption.

10:37AM 14 MR. KRULY: I think Your Honor is -- the header of
10:37AM 15 the page has the docket number from the clerk's office.

10:37AM 16 MR. GREENMAN: It should be 22-CV-00601, I believe,
10:37AM 17 Your Honor. Right?

10:37AM 18 MR. KRULY: Yes. If --

10:37AM 19 THE COURT: Yeah. Why isn't it on the caption?

10:37AM 20 MR. KRULY: Your Honor, when the government files a
10:37AM 21 civil complaint, we don't have a docket number assigned by the
10:37AM 22 clerk's office.

10:37AM 23 THE COURT: But there is a number now?

10:37AM 24 MR. KRULY: It is. And I think if Your Honor looks
10:37AM 25 at the very top of the page, I think it's possibly in blue,

10:37AM 1 there's a banner that has the docket number.

10:38AM 2 THE COURT: You're right. I didn't see it. I was
10:38AM 3 looking at normally where it's placed.

10:38AM 4 MR. KRULY: Where it should be.

10:38AM 5 THE COURT: Okay.

10:38AM 6 MR. KRULY: Paragraph 44. Defendant waives and
10:38AM 7 agrees not to assert in any civil lawsuit arising from the
10:38AM 8 conduct which gave rise to the criminal charges that are the
10:38AM 9 subject of this plea, any defense based on the double jeopardy
10:38AM 10 or excessive fines clause of the Constitution.

10:38AM 11 We covered 44A. Forty-four B. The parties agree that the
10:38AM 12 only crime the defendant is pleading guilty to is a violation
10:38AM 13 of 26 USC section 7203 and Section 6050(i). The parties agree
10:38AM 14 that the only charge to which the defendant is pleading guilty
10:38AM 15 is a failure to file an IRS Form 8300 in 2010 as set forth in
10:38AM 16 the superseding information and factual basis.

10:38AM 17 Paragraph 45. This plea agreement represents the total
10:38AM 18 agreement between the defendant, Frank R. Parlato, Jr., and
10:38AM 19 the government. There are no promises made by anyone other
10:38AM 20 than those contained in this agreement. This agreement
10:39AM 21 supersedes any other prior agreements, written or oral,
10:39AM 22 entered into between the government and the defendant, signed
10:39AM 23 by myself, dated today, August 5th, 2002.

10:39AM 24 The plea then reads, I have read this agreement which
10:39AM 25 consists of pages 1 through 16. I have had a full opportunity

10:39AM 1 to discuss this agreement with my attorney, Paul J. Cambria,
10:39AM 2 Jr., Esquire. I agree that it represents the total agreement
10:39AM 3 reached between me and the government. No promises or
10:39AM 4 representations have been made to me other than what is
10:39AM 5 contained in this agreement. I understand all of the
10:39AM 6 consequences of my plea of guilty. I fully agree with the
10:39AM 7 contents of this agreement. I am signing this agreement
10:39AM 8 voluntarily and of my own free will, dated and signed by the
10:39AM 9 defendant and Mr. Cambria today's date, August 5th, 2022.

10:39AM 10 THE COURT: We read 44 and 44B?

10:39AM 11 MR. KRULY: We did, Your Honor.

10:39AM 12 THE COURT: Okay. That's been initialed by
10:39AM 13 Mr. Parlato?

10:39AM 14 MR. KRULY: It has.

10:39AM 15 THE COURT: Mr. Parlato, we've gone over the
10:39AM 16 agreement here in court today. You indicated you understand
10:39AM 17 it. Your attorneys have said that they've gone over it with
10:40AM 18 you. They're satisfied you understand it. You signed it
10:40AM 19 indicating you understand it. Any questions, sir?

10:40AM 20 THE DEFENDANT: No. I don't have any questions, Your
10:40AM 21 Honor.

10:40AM 22 THE COURT: Are these all the terms and conditions of
10:40AM 23 the plea agreement which we just read here in court?

10:40AM 24 THE DEFENDANT: Yes, they are.

10:40AM 25 THE COURT: No one has made any other promises to

10:40AM 1 you, have they?

10:40AM 2 THE DEFENDANT: No, they have not, Your Honor.

10:40AM 3 THE COURT: Has anyone attempted, in any way, to
10:40AM 4 force you to plead guilty here?

10:40AM 5 THE DEFENDANT: Oh, no, Your Honor.

10:40AM 6 THE COURT: Anyone threaten you in any way?

10:40AM 7 THE DEFENDANT: Not at all.

10:40AM 8 THE COURT: Your willingness to plead guilty, your
10:40AM 9 attorneys had extensive negotiations, I guess, over the years
10:40AM 10 with the government. Based on those discussions, the plea
10:40AM 11 agreement was prepared and that's basically how this all came
10:40AM 12 about. Is that true?

10:40AM 13 THE DEFENDANT: That is correct, Your Honor.

10:40AM 14 THE COURT: Now, do you understand that the offense
10:40AM 15 which you are pleaded guilty to is a serious offense. And if
10:40AM 16 it's accepted by the Court, you'll be found guilty, and there
10:40AM 17 will be no appeal as long as the sentence is consistent with
10:40AM 18 the terms and conditions of the plea agreement. Do you
10:41AM 19 understand that, sir?

10:41AM 20 THE DEFENDANT: Yes, I do, Your Honor.

10:41AM 21 THE COURT: In other words, this is your day in
10:41AM 22 court. And, as you know, we have a scheduled trial date next
10:41AM 23 month. And you'd have a right to have all of the
10:41AM 24 representation, et cetera, and I'll go through that in a
10:41AM 25 minute. Do you understand that?

10:41AM 1 THE DEFENDANT: Yes, I do, Your Honor.

10:41AM 2 THE COURT: Now, do you understand that being found
10:41AM 3 guilty of this offense may deprive you of certain rights? You
10:41AM 4 may lose the right to vote, right to hold public office, right
10:41AM 5 to serve on a jury, right to possess a firearm, certain civil
10:41AM 6 service-type jobs. Do you understand all that, sir?

10:41AM 7 THE DEFENDANT: Yes, I do, Your Honor.

10:41AM 8 THE COURT: And do you understand all the possible
10:41AM 9 consequences? Do you understand we read paragraph 1? We've
10:41AM 10 gone over the guidelines. We've gone over the forfeiture.
10:41AM 11 We've gone over the penalty assessment of \$100. Do you
10:41AM 12 understand all that, sir; and the possible fine. Do you
10:41AM 13 understand all that?

10:41AM 14 THE DEFENDANT: I do understand it, Your Honor.

10:41AM 15 THE COURT: Now, do you understand that you have a
10:41AM 16 right to plead not guilty? Now, we'd go to trial on the
10:41AM 17 indictment, I assume.

10:41AM 18 MR. KRULY: That's -- yes.

10:41AM 19 THE COURT: And you have a right to a trial on the
10:42AM 20 indictment, and you have a right to have a jury decide whether
10:42AM 21 you're guilty or not guilty. First of all, I'd be the Judge.
10:42AM 22 And, to the best of my ability, I would conduct a trial fairly
10:42AM 23 and impartially. I have no interest in this case. My job is
10:42AM 24 to make sure you and the government get a fair trial under the
10:42AM 25 law. Do you understand that, sir?

10:42AM 1 THE DEFENDANT: Yes, I do, Your Honor.

10:42AM 2 THE COURT: Now, in picking a jury, we would have in
10:42AM 3 the courtroom somewhere around 50 to 75 people who live in
10:42AM 4 this area, live in this district. They'd be in the court.
10:42AM 5 They'd all be put under oath to answer all my questions
10:42AM 6 honestly and truthfully. Your lawyers will be present with
10:42AM 7 you.

10:42AM 8 If there were anyone in that group after the questioning
10:42AM 9 by the Court -- and it's pretty thorough I believe -- if
10:42AM 10 there's any question of anyone's impartiality, their fairness,
10:42AM 11 you could bring it to the Court's attention and say, hey,
10:42AM 12 Judge. That guy's already made up mind. And if I agree with
10:42AM 13 you, there's no reason why I wouldn't, if it makes sense, that
10:42AM 14 person would be gone.

10:43AM 15 You know, Mr. Parlato, in life, you have a lot of people
10:43AM 16 that have a lot of opinions about a lot of things. And a lot
10:43AM 17 of these people with their opinions sometimes don't have the
10:43AM 18 foggiest idea what they're talking about, but they're so
10:43AM 19 smart, they're going to give you their opinion. And the
10:43AM 20 person may say, well, the guy has been here, he's been
10:43AM 21 charged, he must be guilty. I don't need a trial. I've
10:43AM 22 already decided the guy is guilty. They wouldn't have a
10:43AM 23 change to serve on a jury. Do you understand that, sir?

10:43AM 24 THE DEFENDANT: Yes, I do, Your Honor.

10:43AM 25 THE COURT: Also, you'd have a right to remove up to

10:43AM 1 ten individuals for any reason you wanted other than race or
10:43AM 2 gender. You couldn't say, well, I don't want any women on my
10:43AM 3 jury, or I don't want a particular race of people. You can't
10:43AM 4 discriminate as to that. During the process -- I've been
10:43AM 5 doing this for a long time -- you may feel that -- well, I
10:44AM 6 just got a note. Are you presently under the influence of any
10:44AM 7 drug, medicine or alcohol?

10:44AM 8 THE DEFENDANT: No, I'm not, Your Honor.

10:44AM 9 THE COURT: You're consistent with that opinion,
10:44AM 10 Mr. Greenman?

10:44AM 11 MR. GREENMAN: Yes. We've discussed it, Your Honor.

10:44AM 12 THE COURT: Okay. I guess I forgot to do that. My
10:44AM 13 staff keeps me -- makes sure I comply with all the
10:44AM 14 requirements of Rule 11.

10:44AM 15 Mr. Greenman or Mr. Cambria would represent you during the
10:44AM 16 trial. You'd have a right to see all the witness, have your
10:44AM 17 lawyer cross-examine all the witnesses. After the government
10:44AM 18 has rested its case, you could put on a defense. You could
10:44AM 19 subpoena witnesses or any records that are relevant to your
10:44AM 20 defense, but you don't have to do anything. You're presumed
10:44AM 21 not guilty.

10:44AM 22 You can sit there and you say, you prove it, government.
10:44AM 23 I'm going to rely on the presumption of innocence. And I will
10:44AM 24 instruct the jury. They'll be under oath, they'll have to
10:44AM 25 follow my instructions, that you have no burden to prove a

10:44AM 1 thing. The burden is strictly on the government. And they
10:44AM 2 will have to convince all 12 jurors that you're guilty beyond
10:44AM 3 a reasonable doubt before you be found guilty. Do you
10:44AM 4 understand that, sir?

10:44AM 5 THE DEFENDANT: Yes, I do, Your Honor.

10:44AM 6 THE COURT: And by entering a plea of guilty, if it's
10:45AM 7 accepted by the Court, there will be no trial. You'll have
10:45AM 8 waived your right to trial as well as all the other rights we
10:45AM 9 talked about. Do you understand that, sir?

10:45AM 10 THE DEFENDANT: Yes, I do, Your Honor.

10:45AM 11 THE COURT: You're doing this voluntarily, of your
10:45AM 12 own free will, no one is forcing you to do this, you
10:45AM 13 understand all the possible consequences?

10:45AM 14 THE DEFENDANT: I do understand them all, Your Honor.

10:45AM 15 THE COURT: Counsel, do you know any reason why I
10:45AM 16 should not accept the plea?

10:45AM 17 MR. KRULY: No, Your Honor.

10:45AM 18 MR. GREENMAN: No, Your Honor.

10:45AM 19 THE COURT: You're both satisfied I've complied with
10:45AM 20 all the requirements of Rule 11?

10:45AM 21 MR. KRULY: Yes, Your Honor.

10:45AM 22 MR. GREENMAN: You have, Your Honor.

10:45AM 23 THE COURT: Mr. Parlato, how do you plead to Count 1
10:45AM 24 of the superseding information; guilty or not guilty?

10:45AM 25 THE DEFENDANT: I plead guilty to it.

10:45AM 1 THE COURT: It's the finding of the Court the
2 defendant is fully competent and capable of entering an
3 informed plea. His plea of guilty is a knowing and voluntary
4 plea, supported by an independent basis of fact containing
5 each of the essential elements of the offense charged. His
6 plea is therefore accepted. He is now adjudged guilty of
7 Count 1.

10:45AM 8 Sentencing will be scheduled for December 7th at 12:30. A
10:45AM 9 written presentence report will be prepared by the probation
10:46AM 10 office to assist the Court in imposing sentence. Mr. Parlato,
10:46AM 11 you'll be afforded an opportunity, sir, to meet with the
10:46AM 12 probation officer. Your attorneys should be present during
10:46AM 13 the interview. You'll receive a copy of the report as well as
10:46AM 14 your attorney.

10:46AM 15 You'll be able to file any additional information or any
10:46AM 16 motions or objections or memoranda that are consistent with
10:46AM 17 the terms and conditions of the plea agreement, and both you
10:46AM 18 and your lawyers have will an opportunity, as well as the
10:46AM 19 government, to say anything you wish to say in mitigation of
10:46AM 20 the sentence. The time schedule for filing all papers will be
10:46AM 21 as follows.

10:46AM 22 THE CLERK: The initial presentence report will be
10:46AM 23 due October 24th. Statement of party with respect to
10:46AM 24 sentencing factors, objections, if any, and motions if any,
10:46AM 25 including 5K1, are due November 16th. Defense notice of

10:46AM 1 government failure to file 5K1 motion due November 21st.

10:46AM 2 Response to objections or motions due November 23rd.

10:47AM 3 Sentencing memorandum or character letters in support of
10:47AM 4 the defendant are due November 23rd. Motions to adjourn
10:47AM 5 sentencing due November 28th. Final presentence report is due
10:47AM 6 November 30th. Government's response to legal arguments in
10:47AM 7 defendant's sentencing memorandum are due November 30th. Any
10:47AM 8 request for a non-guideline sentence in writing due November
10:47AM 9 30th, and response to request for non-guideline sentence due
10:47AM 10 December 5th.

10:47AM 11 THE COURT: All right. I think we've have concluded
10:47AM 12 in the case of United States v. Parlato as far as the plea.

13 (Proceedings concluded at 10:47 a.m.)

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I certify that the foregoing is a
correct transcription of the proceedings
recorded by me in this matter.

s/ Megan E. Pelka, RPR

Official Court Reporter